

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

KAYLA JEAN AYERS,	:	CASE NO. 5:20-cv-1654
	:	
Petitioner,	:	JUDGE SARA LIOI
	:	
v.	:	Magistrate Judge Carmen E. Henderson
	:	
DIRECTOR, OHIO DEPARTMENT	:	<u>AMENDED</u>
OF REHABILITATION &	:	<u>RESPONDENT'S UNOPPOSED MOTION</u>
CORRECTION,	:	<u>FOR TIME EXTENSION TO ANSWER</u>
	:	
Respondent.	:	

Pursuant to Fed. R. Civ. P. 6(B)(1), and without opposition, Respondent Ohio Department of Rehabilitation & Correction (ODRC) Director moves the Court for a time extension to answer until after the Court rules on Habeas Petitioner Kayla Jean Ayers' motion for stay in abeyance. **(Motion, Doc. 2 PageID #53-57)** Opposing Counsel does not oppose the ODRC Director's request for a time extension to answer, and there is good cause to grant the ODRC Director a time extension to answer because the Court's ruling on the motion to stay is material to the ODRC Director's Answer/Return of Writ.

The Court previously ordered the ODRC Director to answer or otherwise respond to Ayers' habeas petition **(Petition, Doc. 1 PageID #2-16)** by October 30, 2020. **(Order, Doc. 6 PageID 69-70)** Meanwhile, Ayers filed a motion for stay and abeyance to exhaust state court remedies **(Motion, Doc. 2 PageID #53-57)**, the ODRC Director filed an unopposed motion for leave to respond instanter **(Motion, Doc. 8 PageID #73-74)** and a proposed response **(Proposed Response, Doc. 8-1 PageID #75-80)**, which are all currently pending before the Court.

The Court's resolution of Ayers' motion for stay and abeyance to exhaust state court remedies (**Motion, Doc. 2 PageID #53-57**) directly affects the ODRC Director's response to Ayers' habeas petition and the contents of the state court record.

Consequently, there is good cause to extend the ODRC Director's deadline to answer Ayers' habeas petition until the Court adjudicates the motion to stay. If the Court stays this proceeding, there is good cause to further extend the ODRC Director's response deadline until the stay is lifted because pending collateral state court proceedings will potentially be dispositive as to Ayers' federal habeas petition and/or the merits of the ODRC Director's defenses.

Ayers will not be unduly prejudiced by a time extension because the ODRC Director has not previously requested any time extensions, Ayers requested the stay and abeyance, and Ayers is challenging presumptively valid criminal convictions. *See Lee v. Jabe*, 989 F.2d 869, 871 (6th Cir. 1993); *State v. Rock*, 11th Dist. Lake No. 2016-L-011, 2016-Ohio-8516. Accordingly, undersigned Counsel contacted Opposing Counsel and Opposing Counsel does not oppose the ODRC's request for a time extension.

Respectfully submitted,

Dave Yost
Ohio Attorney General

s/Maura O'Neill Jaite
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CERTIFICATE OF SERVICE

On October 30, 2020, this Amended Motion was electronically filed in the Court's CM/ECF system, which will distribute the notice to all parties and counsel of record.

s/Maura O'Neill Jaite
Maura O'Neill Jaite
Senior Assistant Attorney General